

## § 291.107

at the following address: Director, Minerals Management Service, Attention: Policy and Management Improvement, 1849 C Street, NW., Mail Stop 5438, Washington, DC 20240-0001; and

(b) Include a nonrefundable processing fee of \$7,500 under § 291.108(a) or a request for reduction or waiver of the fee under § 291.109(a); and

(c) Serve your complaint on all persons named in the complaint. If you make a claim under § 291.111 for confidentiality, serve the redacted copy and proposed form of a protective agreement on all persons named in the complaint.

(d) Complaints shall not be filed later than two (2) years from the time of the alleged access denial. If the complaint is filed later than two (2) years from the time of the alleged access denial, the MMS Director will not consider the complaint and the case will be closed.

[73 FR 34640, June 18, 2008, as amended at 74 FR 46910, Sept. 14, 2009]

### § 291.107 How do I answer a complaint?

(a) If you have been served a complaint under § 291.106, you must file an answer within 60 days of receiving the complaint. If you miss this deadline, MMS may disregard your answer. We consider your answer to be filed when the MMS Director receives it at the following address: Director, Minerals Management Service, Attention: Policy and Management Improvement, 1849 C Street, NW., Mail Stop 5438, Washington, DC 20240-0001.

(b) For purposes of this paragraph, an answer means a comprehensive written brief stating the legal and factual basis refuting the allegations in the complaint, together with supporting material. You must:

(1) Attach to your answer a copy of the complaint or reference the assigned MMS docket number (you may obtain the docket number by calling the Policy and Management Improvement Office at (202) 208-2622);

(2) Explain in your answer why the action or inaction alleged in the complaint does not violate 43 U.S.C. 1334(e) or (f)(1)(A);

(3) Include with your answer all documents in your possession or that you can otherwise obtain that support the

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facts in your answer including, but not limited to, contracts and any affidavits that may be necessary to support particular factual allegations; and

(4) Provide a copy of your answer to all parties named in the complaint including the complainant. If you make a claim under § 291.111 for confidentiality, serve the redacted copy and proposed form of a protective agreement to all parties named in the complaint, including the complainant.

[73 FR 34640, June 18, 2008, as amended at 74 FR 46910, Sept. 14, 2009]

### § 291.108 How do I pay the processing fee?

(a) You must pay the processing fee electronically through *Pay.Gov*. The *Pay.Gov* Web site may be accessed through links on the MMS Offshore Web site at: <http://www.mms.gov/offshore/homepage> (on drop-down topic list) or directly through *Pay.Gov* at: <https://www.pay.gov/paygov/>.

(b) You must include with the payment:

(1) Your taxpayer identification number;

(2) Your payor identification number, if applicable; and

(3) The complaint caption, or any other applicable identification of the complaint you are filing.

### § 291.109 Can I ask for a fee waiver or a reduced processing fee?

(a) MMS may grant a fee waiver or fee reduction in extraordinary circumstances. You may request a waiver or reduction of your fee by:

(1) Sending a written request to the MMS Policy and Management Improvement Office when you file your complaint; and

(2) Demonstrating in your request that you are unable to pay the fee or that payment of the full fee would impose an undue hardship upon you.

(b) The MMS Policy and Management Improvement Office will send you a written decision granting or denying your request for a fee waiver or a fee reduction.

(1) If we grant your request for a fee reduction, you must pay the reduced processing fee within 30 days of the date you receive our decision.

(2) If we deny your request, you must pay the entire processing fee within 30 days of the date you receive the decision.

(3) MMS's decision granting or denying a fee waiver or reduction is final for the Department.

**§291.110 Who may MMS require to produce information?**

(a) MMS may require any lessee, operator of a lease or unit, shipper, grantee, or transporter to provide information that MMS believes is necessary to make a decision on whether open access or nondiscriminatory access was denied.

(b) If you are a party and fail to provide information MMS requires under paragraph (a) of this section, MMS may:

(1) Assess civil penalties under 30 CFR part 250, subpart N;

(2) Dismiss your complaint or consider your answer incomplete; or

(3) Presume the required information is adverse to you on the factual issues to which the information is relevant.

(c) If you are not a party to a complaint and fail to provide information MMS requires under paragraph (a) of this section, MMS may assess civil penalties under 30 CFR part 250, subpart N.

**§291.111 How does MMS treat the confidential information I provide?**

(a) Any person who provides documents under this part in response to a request by MMS to inform a decision on whether open access or nondiscriminatory access was denied may claim that some or all of the information contained in a particular document is confidential. If you claim confidential treatment, then when you provide the document to MMS you must:

(1) Provide a complete unredacted copy of the document and indicate on that copy that you are making a request for confidential treatment for some or all of the information in the document.

(2) Provide a statement specifying the specific statutory justification for nondisclosure of the information for which you claim confidential treatment. General claims of confidentiality are not sufficient. You must furnish sufficient information for MMS to

make an informed decision on the request for confidential treatment.

(3) Provide a second copy of the document from which you have redacted the information for which you wish to claim confidential treatment. If you do not submit a second copy of the document with the confidential information redacted, MMS may assume that there is no objection to public disclosure of the document in its entirety.

(b) In making data and information you submit available to the public, MMS will not disclose documents exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552) and will follow the procedures set forth in the implementing regulations at 43 CFR part 2 to give submitters an opportunity to object to disclosure.

(c) MMS retains the right to make the determination with regard to any claim of confidentiality. MMS will notify you of its decision to deny a claim, in whole or in part, and, to the extent permitted by law, will give you an opportunity to respond at least 10 days before its public disclosure.

**§291.112 What process will MMS follow in rendering a decision on whether a grantee or transporter has provided open and nondiscriminatory access?**

MMS will begin processing a complaint upon receipt of a processing fee or granting a waiver of the fee. The MMS Director will review the complaint, answer, and other information, and will serve all parties with a written decision that:

(a) Makes findings of fact and conclusions of law; and

(b) Renders a decision determining whether the complainant has been denied open and nondiscriminatory access.

**§291.113 What actions may MMS take to remedy denial of open and nondiscriminatory access?**

If the MMS Director's decision under §291.112 determines that the grantee or transporter has not provided open access or nondiscriminatory access, then the decision will describe the actions MMS will take to require the grantee or transporter to remedy the denial of open access or nondiscriminatory access. The remedies MMS would require